

# Rail Service Competition Council (RSCC)

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## Background

The Rail Service Competition Council was created in 2005 by the State of Montana Legislature to promote rail service competition in Montana. The council works to promote rail service competition in the state, develop related plans, evaluate taxing practices, and assess organizational structures to help facilitate development of rail services, coordinate with railroads, and promote expansion and construction of rail facilities. The 13 member council is organized into six subcommittees. During the 2009 session no money was budgeted for the RSCC in the 2011 biennium and as a result the RSCC has not met since April 2009. In the 2011 Legislative session, the RSCC biennial budget was restored at \$50,000/year for the biennium.

## Purpose and Responsibilities

- Promote rail service competition in Montana that results in reliable and adequate service at reasonable rates.
- Develop a comprehensive and coordinated plan to increase rail service competition in Montana.
- Reevaluate the state's railroad taxation practices to ensure reasonable competition while minimizing any transfer of tax burden. Reevaluation is recommended of property taxes, special fuel taxes, taxes that minimize highway damage, and corporate tax rates.
- Develop various ways to help Montanans impacted by high rates and poor rail service. Analyze the feasibility of developing legal structures to facilitate growth of producer transportation investment cooperatives and rural transportation infrastructure authorities.
- Provide advice and recommendations to the Department of Transportation on certain rail activities.
- Coordinate efforts and develop cooperative partnerships with other states and federal agencies to promote rail service competition.
- Act as the state's liaison in working with Class 1 railroads to promote rail service competition.
- Promote the expansion of existing rail lines and the construction of new rail lines in Montana.
- Cooperate with and report to any standing or interim legislative committee assigned to study or with oversight duties for rail service competition issues. Report to the 2009 legislature on its activities and progress in fulfilling its duties.

## Past Activities

The RSCC developed a report for the legislative committee to show actions taken from 2006-2008. This report included the minutes of all the meetings, the subcommittees and membership formed within the RSCC, the development of the committee's web pages,, and highlights of activities and progress to date. RSCC highlights included:

- **Discussions with the Surface Transportation Board (STP) regarding rail abandonments:**
  - Moore to Lewistown abandonment—general objections that were later dropped
  - Discussions about the Helena Great Falls line

- **Several reports/presentations including:**
  - Terry Whiteside presentation showing the cost to ship—two committees formed as a result of this presentation Taxation→ to look at ways to minimize shippers tax burden. Transportation→to look at strategies to give options to shippers (other modes)
  - Report on the Farm Producer survey which found that more grain is being hauled on highways and those distances are increasing, there was “pluggings” at grain elevators due to lack of rail cars, grain elevators are becoming more and more 110 car facility (still the trend).
  - MT. Intermodal study: purpose was to determine what if anything could be done to continue service to MT’s intermodal facility. (There is another Intermodal study by the Montana World Trade Center regarding the same concern and it is ongoing).
- **Discussions with various RR providers**
  - UP to urge continued service to port of Montana in Butte
  - Update on Tongue River Rail
  - Discussions with BNSF to purchase the Helena to Great Falls line (BNSF stated not for sale).
- **A strategic plan was developed entailing the following:**
  - Goal 1 : Improve access for Forest Paper and Industrial Products to southern Markets in U.S. via UP, Canadian Pacific or other service providers
  - Goal 2: Enhance access in intermodal rail service available to Montana Consumers
  - Goal 3: Enhance access for agricultural commodities shippers to rail service Montana’s Ag products competitive both Nationally and Internationally
  - Enhance Access to Both Local, short line rail service, and national rail service for Montana’s coal keeping it competitive in both the booming national and international market place.

## Current activities for the RSCC

### Funding

The 2011 Legislature added funding in House Bill 2 for operations of the Rail Service Competition Council amounting to \$50,000/year from the non-restricted highways state special revenue account.

*Note: During the 2009 biennium, the Legislature provided a \$50,000 state special revenue appropriation for each year of the biennium. Total expenditure in fiscal year 2008 was \$8,382.30 and fiscal year 2009 was \$13,244.12.*

### New Appointments

In early October 2011, two Legislative appointments were made:

- Senator Jonathan Windy Boy
- Representative Tom Berry

In December 2011, three Executive appointments were made:

- Carla Allen, PO Box 357, Denton MT 59430
  - Qualification: knowledge of class II railroads
- Russell Hobbs, PO Box 1990, Columbia Falls MT 59912
  - Qualification: knowledge of transportation for wood products industry
- Walt Ainsworth, 1500 Blaine St, Helena MT 59601
  - Qualification: knowledge of trucking industry
  - Replaces/Reappointed: Larry Bonderud

### Current RSCC Members (including new appointments):

#### **Executive appointments**

1. Carla Allen (Class II railroads)
2. Walt Ainsworth (Trucking Industry)
3. John DeMichie (Coal Industry)
4. Jerry Jimison (Class I Rail)
5. Russell Hobbs (Wood products industry)
6. Doug Miller (Mineral Industry)
7. Michael O'Hara Chair (Farm Commodities)

#### **Legislative Appointments**

1. Senator Jonathan Windy Boy
2. Representative Tom Berry

#### **Statutory Appointments**

1. Dan Bucks (Department of Revenue Director)
2. Ron De Yong (Department of Agriculture Director)
3. Tim Reardon (Department of Transportation Director)
4. Evan Barrett (Governor's Office of Economic Development Chief Business Officer)

#### **Executive Assistant**

In early January 2012, a limited solicitation was developed and sent to three companies requesting proposal to serve as executive assistant to complete the following work tasks:

1. Scheduling and Organization of Meetings for the RSCC. Work with MDT, the Chairman, and Council members to schedule meetings, including subcommittee meetings, select meeting sites, and coordinate meeting logistics.
2. Recording and Development of RSCC Meeting Minutes. Attend all RSCC meetings, record each session, develop and distribute minutes within ten days of each meeting, and post minutes on the RSCC website.
3. Establishing Meeting Agendas. Work with MDT and the Chairman to develop meeting agendas in advance of each meeting. Work with MDT to post agendas on the RSCC website and email them to each Council member at least five days before each meeting.

4. Meeting Follow-up. Following each meeting, develop and distribute an action item report identifying tasks to be accomplished, responsible individuals and time frame for completion. .
5. Communications and Distribution of Information. Create and maintain a Listserv for Council members and other interested parties and distribute information to Council members by email or mail.
6. Develop Report to 2013 Legislature. In cooperation with MDT and the Chairman, develop report of RSCC activities and progress.
7. Other Administrative Duties. Provide other administrative duties as assigned by MDT and the RSCC Chairman within the scope of this contract.

After receiving three replies, in early February 2012 MDT awarded the Executive Assistant contract to:

MONTANA ECONOMIC DEVELOPMENT SERVICES PLLC  
118 E. SEVENTH ST. STE 2A  
ANACONDA, MT 59711

MDT has met with Montana Economic Development Services to discuss the agenda for the first meeting.

### RSCC Meetings

A mid-March 2012 meeting is being planned with a second meeting mid-June 2012. The mid-March meeting agenda tentatively consists of a review of the previous strategic plan, discussion of new goals, and updating and development of working committees with action items for committee members.

### RSCC Related Activities in Montana

The following is a list of activities that have occurred between the last RSCC (2009) meeting to the current date that are likely of interest to the RSCC:

- Tongue River Rail—environmental group went to court stating the STB did not do a thorough environmental review.
- Montana World Trade Center Study: Examining how to have functional Intermodal facilities in Montana. (note that this project is 90% complete, a model analysis report which outlines how goods are being shipped to and from Montana is complete. Identification of companies to participate in unit train shipping is substantially complete—Please see latest quarterly report for more information)
- New Trans loading Facilities in the oil fields—two improved in Montana, Glendive and Culbertson which have been completed, and one new one being built in Dore
  - Dore
  - Culbertson-improved
  - Glendive-improved
- CMR-Structure issues caused by Spring 2011 Flooding
- Application for Discontinuation of service:
  - MRL Sub division 9—64.7 miles of track from Missoula to Darby—damaged during the spring 2011 floods applied for discontinuation of service in 2011

- MRL Sub division 11 Dixon to Polson—29.0 mile line—applied for discontinuation of service in 2011.

## **Rail Service Competition Council**

2-15-2511. Rail service competition council. (1) There is a rail service competition council consisting of the following members:

- (a) the director of the department of agriculture provided for in 2-15-3001;
  - (b) the director of the department of transportation provided for in 2-15-2501;
  - (c) the director of the department of revenue provided for in 2-15-1301;
  - (d) the chief business development officer of the office of economic development provided for in 2-15-218;
  - (e) seven people, appointed by the governor, who shall serve staggered 4-year terms commencing January 1 following their appointment, with the following qualifications:
    - (i) one person with substantial knowledge and experience related to Class I railroads;
    - (ii) one person with substantial knowledge and experience related to Class II railroads;
    - (iii) one person who is a farm commodity producer in the state and who has substantial knowledge and experience related to transportation of farm commodities;
    - (iv) one person with substantial knowledge and experience in the trucking industry in the state;
    - (v) one person with substantial knowledge and experience related to transportation for the mineral industry in the state;
    - (vi) one person with substantial knowledge and experience related to transportation for the coal industry in the state; and
    - (vii) one person with substantial knowledge and experience related to transportation for the wood products industry in the state; and
  - (f) subject to 5-5-234, two members, one from the majority party and one from the minority party and one from each house of the legislature, from the economic affairs interim committee established in 5-5-223, selected by the presiding officer of the economic affairs interim committee with the concurrence of the vice presiding officer at the first interim committee meeting at the beginning of each interim.
- (2) The rail service competition council shall perform the following duties:
- (a) promote rail service competition in the state that results in reliable and adequate service at reasonable rates;
  - (b) develop a comprehensive and coordinated plan to increase rail service competition in the state;
  - (c) reevaluate the state's railroad taxation practices to ensure reasonable competition while minimizing any transfer of tax burden. The reevaluation of the state's railroad taxation practices should include but is not limited to a reevaluation of property taxes, taxes that minimize highway damage, special fuel taxes, and corporate tax rates.
  - (d) develop various means to assist Montanans impacted by high rates and poor rail service;
  - (e) analyze the feasibility of developing legal structures to facilitate growth of producer transportation investment cooperatives and rural transportation infrastructure authorities;
  - (f) provide advice and recommendations to the department of transportation on the department's activities under 60-11-113 through 60-11-116;
  - (g) coordinate efforts and develop cooperative partnerships with other states and federal agencies to promote rail service competition;

(h) act as the state's liaison in working with Class I railroads to promote rail service competition; and

(i) promote the expansion of existing rail lines and the construction of new rail lines in the state.

(3) (a) The council shall cooperate with and report to any standing or interim legislative committee that is assigned to study or has oversight duties for rail service competition issues.

(b) The council shall report to the 2009 legislature on its activities and its progress in performing the duties required in subsection (2).

(4) The council must be compensated, reimbursed, and otherwise governed by the provisions of 2-15-122.

(5) The council is attached for administrative purposes only to the department of transportation, which may assist the council by providing staff and budgetary, administrative, and clerical services that the council or its presiding officer requests.

(6) Staffing and other resources may be provided to the council only from state and nonstate resources donated to the council and from direct appropriations by each legislature.

History: En. Sec. 1, Ch. 605, L. 2005; amd. Sec. 4, Ch. 605, L. 2005; amd. Sec. 1, Ch. 248, L. 2007; Sec. 2-15-246, MCA 2005; reds. 2-15-2511 by Sec. 3, Ch. 248, L. 2007; amd. Sec. 5, Ch. 4, Sp. L. May 2007.

Compiler's Comments:

2007 Special Session Amendment: Chapter 4 in (1)(f) at beginning inserted "subject to 5-5-234" and near beginning after "one from" substituted "the majority party and one from the minority party" for "each political party". Amendment effective May 25, 2007.

Retroactive Applicability: Section 22, Ch. 4, Sp. L. May 2007, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to appointments made for members of the 60th legislature."

2007 Amendment: Chapter 248 in (1)(e) at beginning increased "six people" to "seven people" and after "governor" inserted "who shall serve staggered 4-year terms commencing January 1 following their appointment"; inserted (1)(e)(vi) providing that one council member have substantial knowledge and experience related to transportation for the coal industry; in (1)(f) at end inserted "at the first interim committee meeting at the beginning of each interim"; inserted (2)(i) adding promoting the expansion of existing rail lines and construction of new rail lines to duties of council; inserted (3)(b) requiring the council to report to the 2009 legislature on its activities and progress in performing its duties; in (5) near middle after "only to the" substituted "department of transportation" for "governor's office"; and made minor changes in style. Amendment effective October 1, 2007.

2005 Amendment -- Coordination: Section 4, Ch. 605, L. 2005, provided: "If House Bill No. 757 and [this act] are both passed and approved, then [section 1(2)(f) of this act] [2-15-246(2)(f)] must read as follows:

"(f) provide advice and recommendations to the department of transportation on the department's activities under [sections 1 through 4 of House Bill No. 757] [60-11-113 through 60-11-116];". House Bill No. 757 was approved as Ch. 602, L. 2005, and subsection (2)(f) of this section was amended accordingly.

Effective Date: Section 5, Ch. 605, L. 2005, provided: "[This act] is effective July 1, 2005."